

Panaji, 29th June, 2000 (Ashada 8, 1922)

SERIES II No. 13



OFFICIAL GAZETTE

GOVERNMENT OF GOA

Note:- There are Two Extraordinary issues to the Official Gazette, Series II No. 12 dated 22-6-2000 as follows:-

- 1) Extraordinary dated 23-6-2000 from pages 357 to 360 regarding Notifications from Department of General Administration and Department of Panchayati Raj and Community Development (Directorate of Panchayats).
- 2) Extraordinary No. 2 dated 28-6-2000 from pages 361 to 370 regarding Notifications from Department of Revenue.

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

Notification

No. 3/5/EXT/M&F/50/2000-01/D. Agri/75

In pursuance of sub-clause (5) of clause 38 of the Fertilizer (Control) Order, 1985, Government is pleased to constitute the State Fertilizer Committee consisting of the following members:-

1. Director of Agriculture
Government of Goa,
Vidyut Bhavan, 4th Floor,
Panaji-Goa ... Chairman
2. Director of I.C.A.R. Complex
for Goa, Old Goa or his
representative ... Member
3. The Chief Manager (Liaison
& Sales) Zuari Industries Ltd.
Goa (Lead Fertilizer
Manufactures in the State)
or his representative ... Member
4. The President, Micro-Fertilizer
Manufactures Association,
Pune or his representative ... Member
5. The Dy. Director of Agriculture
Govt. of Goa, Directorate of
Agriculture, 4th Floor, Vidyut
Bhavan, Panaji ... Member
Secretary.

Scope & terms of Committee

1. The Committee will advise the State Government regarding grade/formulation of Mixture of fertilizers & Micro-nutrients.
2. The Committee will meet as and when required for the purpose at Sr. No. 1 above.

This issues in supersession to the Notification No. 3/4/AGRÖN/PLAN/M&F/50/98-99/D. Agri/117 dated 15-6-1998 published in Official Gazette Series II No. 18 dated 30th July, 1998.

P. B. Hawaldar, Director of Agriculture & Ex-Officio Joint Secretary.

Panaji, 20th June, 2000.

Department of Food & Civil Supplies

Order

No. 11/14-8/87-CSD (Vol. II)

- Read: 1) Order No. 11/14-8/87-CSD (Vol. II) dt. 21-5-1999.
- 2) Order No. 11/14-8/87-CSD (Vol. II) dt. 24-4-2000.

The Government of Goa is pleased to appoint Justice (Retd.) Eurico da Silva, Retired Judge of High Court of Mumbai, as the President of Consumer Disputes Redressal Commission (hereinafter called as the "State Commission") of Goa on full time basis under the provision of Clause 16(1)(a) of the Consumer Protection Act, 1986 (Central Act No. 68 of 1986) as per the following terms and conditions with effect from 1-10-1999.

1. The President of the State Commission shall hold office for a term of 5 years or upto the age of 67 years whichever is earlier and shall not be eligible for re-appointment.
2. His pay and allowances will be fixed as per Rules.

The expenditure on account of his salary shall be debitable to the Budget Head "3456-Civil Supplies, 001-Direction and Administration, 04-Consumer Affairs Cell (Non-Plan), 01-Salaries.

This supersedes the Order No. 11/14-8/87-CSD (Vol. II) dated 24-4-2000.

By order and in the name of the Governor of Goa.

George Kuruvilla, Director of Civil Supplies and Price Control and Ex-Officio Joint Secretary.

Panaji, 23rd June, 2000.

Department of Home

Home — General Division

Notification

No. HD (G) 45-59/575/66-Vol. III

The Rajya Sainik Board, Goa is hereby re-constituted as under:-

- | | | |
|--|------|---------------------|
| 1. Chief Minister | | President |
| 2. General Officer Commanding in-Chief Headquarters, Southern Command, Pune | ... | Vice President |
| 3. Chief Secretary | | Member |
| 4. The Flag Officer Commanding Goa Area, in Vasco-da-Gama | ... | Member |
| 5. The Station Commander and Commandant 2 Signal Training Centre, Panaji Goa | ... | Member |
| 6. The Collector North (Goa) Panaji | ... | Member |
| 7. The Collector South (Goa) Margao | ... | Member |
| 8. Secretary (Education) Secretariat, Panaji | ... | Ex-Officio Member |
| 9. Joint Secretary (Home) Secretariat, Panaji | ... | Ex-Officio Member |
| 10. Director Social Welfare, Panaji | ... | Ex-Officio Member |
| 11. Director General Resettlement Ministry of Defence, New Delhi | ... | Special Invitee |
| 12. Secretary Kendriya Sainik Board Ministry of Defence, New Delhi | ... | Special Invitee |
| 13. Director Resettlement South Zone, Pune. | ... | Special Invitee |
| 14. Shri Vishwas Satarkar, H. No. K-12, Kalasrem Kerim, Ponda-Goa | ... | Non Official Member |
| 15. Lt. Col. S. M. D'Souza (Retd.) | ... | Non Official Member |
| 16. Cdr. B. Lobo (Retd.) | ... | Non Official Member |
| 17. Wg. Cdr. C. M. Jaywant (Retd.) | ... | Non Official Member |
| 18. Representative of Goa Chamber of Commerce | ... | Non Official Member |
| 19. President, Goa Small Industries Association | ... | Non Official Member |
| 20. Secretary, Rajya Sainik Board (Goa) | ... | Member Secretary |

The functions of the Board are specified below:

- (i) Co-ordinating and administering the work of Department of Sainik Welfare.

- (ii) Promoting measures relating to the Welfare of Ex-Servicemen and the families of serving and deceased personnel.
- (iii) Disseminating information to the General Public regarding the Armed Forces in the Country and taking measures to encourage the general public to take active interest in the Armed Forces.

The reconstituted Board shall hold office for a period of 2 years, from the date of issue of this Notification. It shall meet every year.

By order and in the name of the Governor of Goa.

A. Mascarenhas, Under Secretary (Home).

Panaji, 14th June, 2000.

Department of Labour

Order

No. CL/Pub-Awards/98/2605

The following Award dated 17-5-2000 in Reference No. IT/27/98 given by the Industrial Tribunal, Panaji Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Commissioner, Labour and Ex-Officio Joint Secretary.

Panaji, 19th May, 2000.

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/27/98

Shri Gurudas Balkrishna Pednekar,
Flat No. 26/A, Patto,
Government Colony,
Panaji-Goa

... Workman/Party I

v/s

M/s Navhind Papers &
Publications Ltd.,
Navhind Bhavan,
Panaji-Goa,

... Employer/Party II

Workman/Party I-In person.

Employer/Party II represented by Adv. Shri P. J. Kamat.

Panaji, dated: 17th May, 2000.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 6th April, 1998 bearing No. IRM/(3-11)/(19)/98/8217 referred the following dispute for adjudication by this Tribunal.

"Whether the severance of employer-employee relationship between the Management of M/s Navhind Papers and Publications Limited, Panaji-Goa, and Shri Gurudas Balkrishna Pednekar, is on account of termination of his services or as a result of voluntary action on the part of the workman?"

Is the workman entitled to any relief?"

2. On receipt of the reference a case was registered under No. IT/27/98 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The Workman/Party I filed his statement of claim at Exb. 3. The facts of the case in brief as pleaded by the workman/Party I (for short, "workman") are that he was employed in the editorial Section of Marathi daily Navprabha run by the Employer/Party II (for short, "employer") from 15th June 1970. That initially he worked as a sub-editor and from December 1970 he worked as a reporter and thereafter he was promoted to the post of Chief Reporter in February 1980. That on 9th May 1991 he received a show cause notice which contained some charges which were false and he replied to the said notice by reply dated 11th May 1991. That he received another show cause notice on 6th June 1991 containing more or less the same charges to which he replied by reply dated 8-6-1991 and thereafter he received a letter informing him that a domestic enquiry would be conducted on 9th July, 1991. That in the course of the enquiry the enquiry officer asked him whether he was accepting the charges to which he replied in the negative and drew his attention to the rejoinder dated 11-5-91 which he had filed. That he wrote a letter to the General Manager after reading the report of the enquiry officer, bringing to his notice the infirmities in the enquiry. That he received a letter dated 6th August 1991 from the Advertising Manager informing him that the enquiry would take place on 14-8-91 and he did not attend the enquiry because his request for the change in the place of enquiry on the health grounds was not agreed to by the employer. That thereafter on 20th March, 1992 he received a memo stating that the enquiry was completed on 9-3-92 and he was to be dismissed from service forthwith. That he continued with his official duty regularly and on 30th April, 1992 when he went to collect his salary he was forced to accept a letter whereby he was informed that he was demoted to the post of Deputy Chief Reporter and was ordered to sit in office from 2.30 p.m. to 20.30 hours. That he replied to the said letter by his letter dated 15-5-92 and thereafter gave another letter dated 18-6-92 to the General Manager because working with physical and mental agony had adverse effect on his health and since even then he was

unmindful and gave him harsh treatment, he approached the Labour Commissioner who told him to have patience for a month. That on 2nd July, 1992 when he went to collect his salary for June, 1992, it was refused to him and when he again went on 4-7-92 the salary was again refused to him, and in that disgusting situation he wrote a letter and gave the same to the P. A. to the Managing Director. That on 6th July, 1992 he went to the office of the P. A. to the Managing Director for withdrawing his letter dated 4-7-92 where he was told that the P.A. was on leave and his letter was not traceable. That when he came to know that the Managing Director was in his office he tried to meet him but could not do so because he was too busy, and therefore he gave a letter to be given to him wherein it was stated that his salary for June 1992 was heldup unnecessarily and that he gave the letter dated 4-7-92 due to the harassment caused to him by the General Manager. That thereafter on 9-7-92 he received a letter dated 8-7-92 signed by the General Manager stating that his resignation was accepted with immediate effect. The workman contended that his resignation in the first week of July, 1992 was involuntary and was the product of conducting perverse domestic enquiry against him, deducting exorbitant income tax from his salary and refusal to give him statutory T. D. C. in time for 4 consecutive years since 1988. The workman contended that termination of his services by the employer was an act of victimisation and discriminatory. The workman also contended that he was forced to resign on 4-7-92 and therefore the action of the employer of terminating his services is liable to be declared null and void. The workman claimed that he is entitled to be reinstated in service as the Chief Reporter of Navprabha with full back wages.

3. The employer filed written statement at Exb. 6. The employer stated that the reference is not maintainable on account of delay and laches and also because the Government was estopped from referring the dispute on a fresh demand when earlier it had already refused to make the reference and the said order of the Government was not challenged by the workman. The employer stated that it publishes two newspapers namely, "the Navhind Times", in English language and "Navprabha" in Marathi language. That the workman was appointed as a Trainee sub Editor/reporter w.e.f. 15.6.70 and over a period was promoted as Chief Reporter and he continued as such till 22-4-92. That from 23-4-92 the workman was demoted as a senior reporter by way of punishment for misconduct which was proved in the domestic enquiry held against him. That the workman was informed by letter dated 24-4-92 that his duty timings will be from 2.30 p.m. to 8.30 p.m. and he is required in the office during his working hours for the Editor, as his field reporting work had been stopped. That the workman did not care for the instructions given to him and started attending office as per his convenience sometimes at 4.00 p.m. or after 6.00 p.m. and then leaving the office immediately after about 5 to 10 minutes. That by letter dated 10-6-92, the employer advised the workman to adhere to his timings and also instructed him to be available in the office

during office hours to carrying out work assigned to him by the Editor. That the workman failed to report for duties during scheduled hours of working on 13th, 15th to 20th and 22nd to 27th June, 1997 and unauthorisedly signed the muster roll over the remarks put in red ink by the Editor and therefore wilfully disobeying the orders of his superiors and tempering with the attendance records he was issued a charge sheet dated 30.6.92. That on 4th July 1992 the workman submitted his resignation letter dated 4-7-92 which was written in his own handwriting and thereafter sent another letter dated 6-7-92, even before the employer had accepted his resignation, confirming that he had left the job and requested for settlement of his dues. That vide letter dated 7-7-92 the employer accepted the resignation of the workman with immediate effect and sent a cheque dated 7-7-92 for Rs. 13,660/- and the Payment order dated 7-7-92 for Rs. 2,930/- towards full and final settlement of his dues alongwith the details of the dues paid, and further the workman was also informed to send a form filled in for payment of gratuity and P. F. and F. P. withdrawal forms for further action. That the workman accepted the full and final settlement of his dues by passing stamped receipt to that effect, and also put the remark that he had signed under protest as the amount mentioned as monthly salary is much below his salary and leave to his credit is also miscalculated, and that the amount mentioned as his monthly salary is actually the 2/3 of the salary. The employer stated that the workman has accepted the letter of acceptance of resignation dated 7-7-92 and encashed the dues sent to him. The employer stated that the resignation letter of the workman was voluntary and was accepted by the Employer in the normal course and settlement of dues was made immediately as desired by him. The employer denied that on 30th April, 1992 when he had gone to collect his salary he was forced to accept a letter signed by the General Manager. The employer stated that on receiving reply dated 23-3-92 from the workman, it was decided to demote him by way of punishment and accordingly when he came to the office on 30-4-92 the letter dated 30-4-92 was given to him demoting him to post of Dy. Chief Reporter and informing him about his timings and the workman accepted the said letter. The employer denied that on 6th July, 1992 the workman had gone to the office of the P. A. to the Managing Director to withdraw his letter dated 4-7-92. The employer stated that the workman had gone to the P. A. to the Managing Director to give the letter dated 6-7-92 confirming his resignation letter dated 4-7-92 and the said letter was accepted by the P. A. The employer denied that the services of the workman were terminated or that the workman was victimised or there was discrimination. The employer further denied that the workman was forced to resign on 4-7-92 or that the action of the employer is liable to be declared null and void or that he is entitled to reinstatement in service as the Chief Reporter of Navprabha with full back wages. The employer contended that its action in accepting resignation of the workman is legal and justified. The employer contended that the workman is not entitled to any relief and the reference is liable to be rejected. The

workman thereafter filed Rejoinder at Exb. 7 controverting the pleadings made by the employer in the written statement.

4. On the pleadings of the parties following issues were framed at Exb. 8.

1. Whether the Workman/Party I proves that his resignation was obtained by the Employer/Party II by force?

2. Whether the Employer/Party II proves that the Workman/ Party I voluntarily resigned and the acceptance of the resignation is legal and justified ?

3. Whether the Employer/Party II proves that the reference is not maintainable for the reasons stated in para 2 of the written statement ?

4. Whether the Workman/Party I is entitled to any relief ?

5. What Award ?

6. My findings on the issues are as follows:

Issue No. 1 : In the negative.

Issue No. 2 : In the affirmative as regards voluntary resignation of the workman. However, the employer was not justified in accepting the resignation with immediate effect vide letter dated 7-7-92, but the acceptance of resignation is legal and justified with effect from 2nd November, 1992.

Issue No. 3 : In the negative.

Issue No. 4 : As per para. 14 below.

Issue No. 5 : As per order below.

REASONS

6. Issue No. 3 : This issue is taken up first because it is concerning the maintainability of the reference itself. The employer has challenged the reference on the ground of delay and laches as well as on the ground that since the Government earlier had refused to make the reference vide order dated 17-3-93, it could not have made the reference subsequently on the basis of the fresh demand made by the workman on 19-6-97. In my view once the reference is made by the Government, it is the duty of the Tribunal to adjudicate the dispute referred to it. It is not for the Tribunal to decide whether the reference is liable to be rejected because there is delay and laches on the part of the Government in making the reference. In such cases the employer has to challenge the order of reference before the High Court by filing a proper Writ Petition. The employer in the present case ought to have challenged the order of reference by filing the Writ Petition before the High Court. The employer did not do so. Similarly if it is the case of the employer that the Government could not have made the reference subsequently once having refused to make the reference, the employer ought to have challenged the order of the Government by filing Writ Petition in the High Court and get the order of reference quashed and set aside. In any event the law is well settled that there is no bar for the Government

to make the reference of the dispute though earlier the Government had declined to make the said reference. The Supreme Court in the case of *M/s Western India Watch Co. Ltd., v/s The Western India Watch Co. Workers Union and others* reported in 1970 Lab. I. C. 1033 in para. 9 of its judgement has held that the function of the Government either under Sec. 10 (1) of the Central Act or a similar provision in a State Act being Administrative, principles such as *rejudicata* applicable to judicial Acts do not apply and such a principle cannot be imported for consideration when the Government first refuses to refer and later changes its mind. The Supreme Court has further held that in fact when the Government refuses to make a reference it does not exercise its powers but on the other hand it refuses to exercise its power and it is only when it decides to refer that it exercises its power and consequently the power to refer cannot be said to have been exhausted when it has declined to make a reference at an earlier stage. The Supreme Court has further held that so long as an industrial dispute exists or is apprehended and the Government is of the opinion that it is so, the fact that it had earlier refused to exercise its powers does not preclude it from exercising it at a later stage, and the mere fact that there has been a lapse of time or that a party to the dispute was, by earlier refusal, led to believe that there would be no reference and acts upon such belief, does not affect the jurisdiction of the Government to make the reference. Same principles are laid down by the Supreme Court in another case namely in the case of *M/s Avon Services Production Agencies (P) Ltd. v/s Industrial Tribunal Hariyana and others* reported in 1970 Lab. I. C. 1. The Supreme Court has held that the Government does not lack the power to make the reference in respect of the same industrial dispute which is once declined to refer and it is not necessary that the Government must have some fresh material made available to its subsequent to its refusal to make a reference for the formation of a fresh opinion, for making the reference. From the above judgements of the Supreme Court it is clear that there is no substance in the contention of the employer that the Government could not have made the present reference of the dispute because it had refused to make the reference earlier and that therefore the reference is not maintainable. I, therefore hold that the employer has failed to prove that the reference is not maintainable and hence I answer the issue no. 3 in the negative.

7. *Issue Nos. 1 and 2:* Both these issues are taken up together as they are inter related. The workman submitted that while terminating his services the employer has violated the provisions of various Act namely the Industrial Disputes Act, 1947. The Working Journalists and Other News Paper Employees (Conditions of Service) and Misc. Provisions Act, 1955, The Working Journalists (Fixation of Rates of Wages) Act, 1958, the Income Tax Act and the Rules made under these Acts. He submitted that the employer adopted unfair labour practice and this fact has been brought on record by him in evidence. He submitted that his resignation was the result of harassment

caused to him by the employer continuously for more than 4 years and one of the instances was that he was not given the Income Tax Deduction Certificate for four years. He submitted that prior to May, 1991 no memo or show cause notice was issued to him by the employer and the letters dated 4-7-92 and 6-7-92 written by him show under what circumstances he had written the resignation letter dated 4-7-92 Exb. E-1. He submitted that the employer had victimised him because he did not cover the Durga Pooja Festival organised by the Committee headed by Mr. V. Dempo in the year 1990. He submitted that victimisation stands proved from the letters dated 11-5-91, 28-7-91, 8-8-91, 23-3-92, 15-5-92, 23-5-92, 18-6-92, Exb. W-2 to W-8 respectively. He submitted that the employer promoted Jr. Journalists and the mistakes committed by them, resulting into publication of false news and false information in the News paper Navprabha and in its weekly published on Sundays, were pardoned whereas he was victimised for no fault on his part. He submitted that his demotion to the post of Dy. Chief Reporter was based on the enquiry held against him which was not conducted in a fair and proper manner. He submitted that since his demotion was by way of unfair labour practice, the same is illegal and bad in law hence the same is liable to be set aside. He submitted that the General Manager Mr. Vilas Sardessai has admitted in his evidence that the workman carried on the duties of Chief Reporter for 5 years. He submitted that no additional remuneration was given to him for carrying out the duties of Chief Reporter. He submitted that the clause nos. 5, 6 and 7 of the letter dated 24th January 1980 Exb. w-10 promoting him to the post of Chief Reporter are illegal in view of the Notification of the Central Government published in the Extraordinary Gazette of India wherein the duties of the Chief Reporter are mentioned. He submitted that the letter dated 24-4-92 Exb. E-16 of the Editor to him stating his duties, the place of his work and his duty hours, is illegal because it amounts to change in conditions of service without notice. In support of his this contention he relied upon the judgement of the Supreme Court in the case of *Kundan Sugar Mills v/s Ziauddin* reported in AIR 1960 SC 650. He submitted that the Labour Commissioner and his Deputies were having bias against him. He submitted that Mr. Valve who was working in the same Grade as that of his, was given two increments but he was not given any increment. He submitted that no staff member can be asked to work for more than 6 days in night shift in a week because it affects the health but he was asked to work as a result of which his health got affected. He submitted that the written statement filed by the employer is not properly verified and hence it should be discarded and should not be taken into consideration. He submitted that he wrote the letter dated 19-6-97 Exb. E-12 to the General Manager because he was given shallow promises by the employer that he would be taken back in service and when it was not done he had to write the letter dated 19-6-97 Exb. E-12 demanding reinstatement in service. He submitted that the employer has violated the provisions of Sec. 25H of the Industrial Disputes Act,

1947 because the employer employed a retired Government employee as the Editor when the workman ought to have been re-employed. He submitted that the employer has made a false statement that all his dues were paid when infact it was not done so. He submitted that the employer should pay compensation to him for having made mistake in terminating his services. He submitted that his resignation was not voluntary but it was made under duress. He submitted that this Tribunal should consider the affidavits of the witnesses filed by him in support of his case as well as the statements made by him in paras 17, 18, 20 22, 24 and 27 of his statement of claim and in paras 3, 4, 7, 10, 20, 27, 31, 34, 38, 41, 42, 44, 45, 49 and 50 of his Rejoinder. He submitted that he is entitled to be reinstated in service with full back wages and other benefits. In support of his submissions he relied upon the Judgements of the Supreme Court in the case of (1) Western India Match Co. Ltd., v/s The Third Industrial Tribunal, West Bengal & Others, reported in (1950-1977) 14 SCLJ 395; (2) Tata Engineering & Locomotive Co. Ltd., v/s S. C. Prasad, reported in (1968-1970) 7 SCLJ 257; (3) Management of U. B. Dutt & Co. (P) Ltd., v/s Workmen of U.B. Dutt & Co. (P) Ltd., reported in (1950-1977) 6 SCLJ 3738; (4) M/s Tulsidas Paul v/s Second Labour Court, E. B. & Others reported in (1971) 8 SCLJ 517; (5) L. Michael and another v/s M/s Johnson Pumps India Ltd., reported in (1950-1977) 12 SCLJ 482; (6) The Gujrat Mineral Development Corporation v/s P. H. Brahmabhatt reported in (1950-1977) 11 SCLJ 432; (7) Gujrat Steel Tubes Ltd., v/s Gujrat Steel Tubes Mazdoor Sabha, reported in (1978-1979) 15 SCLJ 382; (8) State of Haryana and Others. v/s Rajindra Sarren, reported in 1972 SLR 112; (9) Union of India v/s Gopal Chandra Misra & Othrs. reported in 1978 (I) SLR 521; that of the Punjab and Haryana High Court in the case of Gurudaspur Central Coop. Bank Ltd., v/s Presiding Officer, Labour Court, Gurudaspur and others, reported in 1999 LLJ 36 and that of the Bombay High Court in the case of R. D. Surve v/s Tata Iron and Steel Co. Ltd., reported in 1988 Mah. L. J. 96.

8. Adv. Shri P. J. Kamat, the learned counsel for the employer, submitted on the other hand that in the present proceedings the enquiry conducted against the workman in the year 1991 nor the order demoting him to the post of Sr. Reporter from Chief Reporter is under challenge. He submitted that vide letter dated 24-4-92 (Exb.E-16) the workman was informed about his duties as the Sr. Reporter and also the place of his work and the timings. He submitted that whenever the workman remained absent he was marked absent but he used to sign over the said markings. He submitted that charge sheet was issued to the workman because inspite of asking him to adhere to the timings, he continued to remain absent. He submitted that the workman submitted resignation letter dated 4-7-92 of his own in his own handwriting. He submitted that the letters dated 4-7-92 and 6-7-92 show that the workman had resigned from service voluntarily and if any force was used as contended by him he ought to have withdrawn the resignation letter. He submitted that the

resignation of the workman was accepted by the employer vide letter dated 7-7-92 (Exb.E-3) and the receipts Exb.E-4 colly do not indicate that he had withdrawn his resignation and if he had gone to the office on 6-7-92 to withdraw his resignation, then he would have mentioned about it in the receipts Exb.E-4 colly. He submitted that the workman did not write any letter to the employer complaining that his resignation was obtained by force or that he was withdrawing his resignation. He submitted that once the resignation is accepted the employer-employee relationship comes to an end, and what the employee can claim are only the dues payable to him. He submitted that though the workman has stated in his resignation letter dated 4-7-92 that his resignation is with effect from 2nd November 1992, his resignation was accepted by the employer vide letter dated 7-7-92 (Exb. E-3 colly) with immediate effect and hence at the most the workman shall be entitled to wages till 1st November, 1992 as at the most it can be said that the continued to be in employment till 1st November 1992 and he could withdraw his resignation before 2nd November, 1992. In support of his this contention he relied upon the Judgement of the Supreme Court in the case of Punjab National Bank v/s R.T.Mittal, reported in 1989 (58) FLR 449.

9. The dispute which has been referred by the Government is on the issue whether the severance of employer-employee relationship between the Management of M/s Navind Papers and Publication Ltd., Panaji-Goa, and Shri-Gurudas Balkrishna Pednekar is on account of termination of his services or as a result of voluntary action on the part of the workman. In short therefore, the dispute which is to be adjudicated upon is whether the employer terminated the services of the workman or whether the workman himself voluntarily put an end to the service. It is a settled law that the Tribunal cannot travel beyond the terms of the reference. The workman in his statement of claim, rejoinder as well as in his evidence has referred to the enquiry conducted against him in the year 1991 in connection with the chargesheet issued to him for having committed misconduct and subsequently demoting him to the post of Dy. Chief Reporter/Senior Reporter from the post of Chief Reporter. His contention is that the enquiry conducted against him was not fair and proper, the place where the enquiry was conducted was unhygienic resulting into his falling sick; the findings of the Inquiry Officer are not proper and the order of demotion issued to him is illegal. He has produced his reply dated 11th May, 1991 to the chargesheet/show cause notice and other letters in relation to the enquiry conducted against him and the charges made against him and he has also deposed in his evidence in relation to his above contentions. In my view the above contentions raised by the workman in these proceedings are irrelevant and his evidence, oral as well as documentary, on the said contentions is liable to be ignored and discarded. This is so because the enquiry and the order demoting him to the post of

Dy. Chief Reporter/Senior Reporter is not under challenge in these proceedings. The subject matter of reference is only whether the employer has terminated the services of the workman or whether he has voluntarily left the services. Therefore the above contentions raised by the workman are irrelevant in the present proceedings.

10. The workman as well as the employer had led evidence before this Tribunal. The workman has examined himself and one witness by name Prakash Kurdikar whereas the employer has examined two witnesses namely the General Manager Mr. Vilas Sardesai and the Sr. Manager Mr. Vijay Kalangutkar. The workman had also filed the affidavits of one Shri Madhav Pandit and Shri Jayant Sambhaji. The workman has contended that the affidavits of the said witnesses should also be considered. In my view the said affidavits cannot be considered because the said witnesses were not produced for cross-examination. Though there is provision in the Industrial Disputes Act for allowing affidavit evidence of parties and witnesses, the affidavit of the party or the witness will have evidentiary value only if he is produced for cross-examination by the opposite party on the statements made in the affidavit. In the present case opportunity was given to the workman to produce the above witnesses for cross examination by the employer. However the workman did not do so and subsequently submitted that he is not in a position to produce the said witnesses and his evidence was closed. This being the case the affidavit evidence of the witnesses Shri Madhav Pandit and Shri Jayant Sambhaji cannot be considered. However, even if their affidavits are considered, they are of no help to the workman because the statements made by them in their affidavits are not relevant as they are not on the matter in issue.

11. The workman in his examination-in-chief recorded on 12-3-99 stated that he did not resign from service but the employer terminated his service. However no evidence whatsoever has been produced by the workman to show that his services were terminated by the employer. Infact in the statement of claim filed by the workman, he took the stand that he was forced by the employer to resign from service. Therefore the statement of the workman in his deposition that he did not resign from service but his services were terminated by the employer is incorrect and it is not supported by any evidence. On the contrary the workman in his cross examination conducted on 12-3-99 admitted that he had written the letter dated 4-7-92 to the Managing Director stating that he was resigning from service because it was difficult for him to work in the present set up in the daily Navprabha. He admitted the letter dated 4-7-92 Exb. E - 1 and further admitted that it is in his own handwriting. I have gone through the said letter dated 4-7-92 which is admittedly in the hand writing of the workman. In the said letter it is clearly stated by him that since it has become difficult for him to work with the present set up in the daily Navprabha he is resigning from the recently demoted Chief Reporter's

post. It is not in dispute that prior to 4-7-92 the workman was demoted to the post Dy. Chief Reporter/Senior Reporter. In the said letter the workman has stated that his resignation will be effective from 2nd November 1992. He has also further requested in the said letter that his account should be settled within a week because he has to carryout many responsibilities urgently. In his cross examination he has admitted the letter dated 6-7-92 Exb. E-2 written by him to the Managing Director which is in his handwriting. He has also admitted that he received the letter dated 7-7-92 Exb.-3 colly informing him that his resignation is accepted, and that alongwith the said letter he received two cheques as mentioned in the said letter. He has further admitted the receipts Exb. E-4 colly, issued by him acknowledging the receipt of the cheques. I have gone through the letter dated 6-7-92 Exb. E-2. This letter is written by the workman in his own handwriting to the Managing Director and it is in continuation of his earlier letter dated 4-7-92. In this letter also the workman has confirmed that he is leaving his job. The reason for leaving the job is mentioned as because of harassment by the Management. In this letter he has mentioned that while settling the account he should be paid additional amounts and the salary for the month of June 1992. The letter dated 7-7-92 Exb. E-3 colly refers to the resignation letter dated 4-7-92 of the workman and by this letter he is informed that his resignation is accepted with immediate effect. The workman has admitted that he received two cheques alongwith the said letter and he has also admitted of having issued receipts acknowledging the receipt of the cheques. The receipts have been produced at Exb. E-4 colly. On the said receipts remarks have been put by the workman to the effect that he has signed the receipts under protest because the amounts of salary is not correctly mentioned as also the leave standing to his credit is miscalculated. The workman in his cross examination admitted that he did not write any letter to the management till December, 1992.

12. From the evidence which is discussed above it is established that the workman had himself resigned from service vide letter dated 4-7-92 Exb. E-1. His resignation was confirmed by him vide letter dated 6-7-92 Exb. E-2. He has admitted that the resignation letter dated 4-7-92 as well as the letter dated 6-7-92 are written by him in his own handwriting. In both these letters nowhere it is mentioned by him that he was forced by the employer to resign from service. In the letter dated 4-7-92 Exb. E-1 he has given the reason for his resigning as that it was becoming difficult for him to work with the present set up in the daily Navprabha whereas in the letter dated 6-7-92 Exb. E-2 he has given the reason of being harassed. A person may resign from service for any reason whatsoever including because of harassment. What is relevant is whether he has resigned of his own or his resignation is obtained forcibly by the employer. If the resignation is obtained forcibly, then it cannot be said that resignation is voluntary or of his own by a person. In the present case,

as mentioned earlier, no evidence has been produced by the workman to prove that the employer forced him to resign from service. The workman has also not been able to bring anything on record in the cross examination of the employer's witnesses to show that the employer forced him to resign from service. Most of the part of the cross-examination of the employer's witnesses is on the issues which have no relevance in the present case. From the receipts Exb. E-4 colly it can be also seen that what the workman disputed was not his resignation from service but about the amount which was payable to him towards settlement of his accounts. As per the letter of resignation dated 4-7-92 Exb. E1, the workman's resignation from service was to take effect from 2nd November, 1992. However, though the employer accepted the resignation of the workman with immediate effect by letter dated 7-7-1992 still the workman continued to be in employment till 1st November, 1992. This is as per the law laid down by the Supreme Court in the case of Punjab National Bank (supra). In this case the Supreme Court has held that the resignation takes effect from the date specified by the employee in his letter of resignation or from the date of the expiry of the period of notice in terms of the service rules, and the employer is not entitled to accept the resignation with effect from the earlier date. The Supreme Court has further held that the employee continues to be in service till the date on which his service would have come to an end in terms of his letter of resignation or the service rules and he is entitled to withdraw his resignation before the expiry of that date, and further if he withdraws his resignation, he continues to be in the service of the employer. In the present case though the employer by letter dated 7th July 1992 Exb. E-3 accepted the resignation of the workman with immediate effect when the workman had stated in his resignation letter dated 4-7-92 Exb. E-1 that he wishes to resign from 2nd November, 1992, as per the law the workman could have withdrawn his resignation at any time before 2nd November. However, the workman did not do so. There is no evidence to show that the workman withdrew his resignation at any time before 2nd November. Infact it is not even the case of the workman that after submitting his resignation letter dated 4-7-92 he withdrew his resignation. As can be seen from the letter dated 19th July 1992 Exb. E-5 the only issue which was raised by the workman through the said letter written by the President of the Goa Union of Journalists on the resignation of the workman was that he was forced to resign from the job. In the case of Nand Keshwar Prasad v/s Indian Farmers Fertilizers Co-operative Ltd., and others reported 1988 II CLR 864 the appellant/Petitioner tendered his resignation on 28-9-83. By letter dated 30-9-83 the respondent employer informed him that his voluntary resignation was accepted. Subsequently by letter dated 1-10-1983 the Petitioner disputed that his resignation was voluntary and he claimed that he was coerced to give the said resignation under threat. The Supreme Court held that the Petitioner/Appellant had tendered resignation voluntarily intending to retire

from a prospective date, and he had not changed his mind and had not withdrawn the same before it became effective. The Supreme Court held that persistently the appellant's case was that he had not resigned voluntarily and that his resignation letter was obtained under coercion and threat of disciplinary proceedings. The Supreme Court did not interfere with the findings of the Labour Court that the appellant had submitted letter of resignation voluntarily and in the absence of threat or coercion. This judgment of the Supreme Court squarely applies to the present case, as in the present case also the workman had not withdrawn his resignation before it had become effective. The workman's case is that he was forced by the employer to resign from service. But no evidence has been produced by him to prove that he was forced to resign from service. The workman has suggested to Shri Vilas Sardesai, the employer's witness, in his cross examination that he had approached the Secretary of the Managing Director on 6-7-92 to withdraw his resignation letter dated 4-7-92 because Managing Director was not present in his office. The witness has not admitted this fact. If the workman really wanted to withdraw his resignation, nothing prevented him from sending the withdrawal letter by post. The workman has also suggested to the employer's witness Shri Kalangutkar that he had sent a letter dated 14th July 1992 by registered post stating that he was not being allowed to withdraw his resignation. The witness has not admitted the receipt of the said letter. The burden was on the workman to prove that he had written such a letter. Moreover it is for the first time in the course of the evidence that the workman took the stand that he wanted to withdraw the resignation or that he was not allowed to withdraw the same. As mentioned by me earlier, if the workman wanted to withdraw the resignation letter and he was not being allowed to do so, he ought to have sent the withdrawal letter by registered post. The workman did not do so and consequently there is no withdrawal of the resignation by me. The workman also accepted the cheques sent to him towards settlement of his account. Though the workman remarked on the receipts Exb. E-4 colly that he was accepting the said cheques under protest, the said protest was only with regards to the quantum of amount due to him.

13. The workman has relied upon various authorities which have been referred to by me hereinabove. I have considered the said authorities and I am of the view that none of the authorities are applicable to the present case as the facts involved in the said cases are totally different from the one involved in the present case. The authorities relied upon by the workman are not on the point in issue. The evidence of Shri Prakash Kurdikar, the witness examined by the workman is irrelevant because he has deposed on the issue of demotion of workman and change in the timings of his work which has no connection with the subject matter of the dispute. The dispute referred is not on the issue of demotion or change in timings of service conditions of workman. From the evidence which is discussed

above, I hold that the workman has failed to prove that he was forced by the employer to resign from service. I therefore answer the issue no. 1 in the negative. I further hold that the employer has succeeded in proving that the workman voluntarily resigned from service. I however hold that the employer could not have accepted the resignation tendered by the workman by his letter dated 4-7-92, by letter dated 7-7-92 with immediate effect since the workman had stated that his resignation was effective from 2nd November, 1992. The employer could not have accepted resignation with effect from earlier date as per the judgement of the Supreme Court in the case of Punjab National Bank (supra). Therefore the acceptance of the resignation by the employer takes effect from 2nd November, 1992 and not with immediate effect, I, therefore answer the issue no. 2 accordingly.

14. Issue No. 4: This issue pertains to the relief to which the workman, if at all, is entitled to. While discussing the issue nos. 1 and 2 I have held that the workman was not forced to resign by the employer and that his resignation is voluntary. I have also held that the acceptance of the resignation by the employer with immediate effect is not legal and justified because the employer could not have accepted the resignation with immediate effect that is with effect from the earlier date when the workman has stated that his resignation is with effect from 2nd November, 1992. The Supreme Court in the case of Punjab National Bank (supra) has held that the employee continues to be in service till the date on which his service would have come to an end in terms of his letter of resignation. Therefore since the workman had stated in his resignation letter dated 4-7-92 Exb. E-1 that his resignation is with effect from 2nd November, 1992, though the employer accepted the resignation with immediate effect vide letter dated 7-7-92, he is deemed to have continued in service till 1st November 1992 and consequently he is entitled to the wages and all other consequential benefits till 1st November 1992. The receipts Exb. E-4 colly shows that the employer paid to the workman wages till the month of June, 1992 and his earned leave wages as on June 1992. Since the workman is deemed to be in service till 1st November, 1992, I hold that the workman is entitled to receive from the employer his full back wages with all other consequential benefits from 1st July, 1992 till 1st November, 1992.

In the circumstances I pass the following order.

ORDER

It is hereby held that the severance of employer-employee relationship between the Management of M/s. Navhind Papers and Publications Limited and the workman Shri Gurudas Balkrishna Pednekar, is not on account of termination of his services by the Management of M/s Navhind Papers and Publications Limited, but it is on account of voluntary resigning from service by the workman Shri Gurudas Balkrishna

Pednekar. However, it is hereby held that the workman Shri Gurudas Balkrishna Pednekar is entitled to receive from the Management of M/s Navhind Papers and Publications Limited, his full back wages with all other consequential benefits from 1st July 1992 till 1st November 1992.

No order as to costs. Inform the Government accordingly.

Sd/-
(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Department of Law & Judiciary,

Law (Establishment) Division

Order

No. LS/1077/93

Read: Government Order No. LS/1077/93-LD (Estt.)
PF.I dated 28-9-99.

Government is pleased to accept the resignation tendered by Shri Agnelo F. Diniz, Advocate from the post of Additional Government Advocate with effect from 6-5-2000.

By order and in the name of the Governor of Goa.

Ashok N. P. Dessai, Under Secretary (Law).

Panaji, 19th June, 2000.

Certificate of Practice

No. 5/40/93-LD (4)

In partial modification of Certificate of Practice of even number dated 1-12-93 issued under the provision of Notaries Act, 1952 (Central Act 53 of 1952) and the Notaries Rules, 1956 made thereunder Shri Menino A. Fernandes is authorised to practice in Salcete Taluka also.

By order and in the name of the Governor of Goa.

Ashok N. P. Dessai, Under Secretary (Law).

Panaji, 16th June, 2000.

Department of Personnel

Order

No. 3/1/80-PER-Vol. II

Read: Govt. of India's Order No. 14016/29/99-UTS dated 08-6-2000.

Consequent upon promotion of Shri Karnal Singh, IPS (AGMU:84), Supdt. of Police (CID) to the grade of Dy. Inspector General of Police in the pay scale of Rs. 16400-450-20000/- as communicated vide Government of India, Ministry of Home Affairs, New Delhi Order No. 14016/29/99-UTS dated 08-06-2000, Singh is posted as Dy. Inspector General of Police, Goa, with effect from 09-06-2000 (F.N.).

Consequent upon promotion of Shri Karnal Singh to the post of Dy. Inspector General of Police, Goa, Shri D. C. Srivastava, IPS (AGMU:95) Supdt. of Police (North) shall hold additional charge of the post of Supdt. of Police (CID) on officiating basis until further orders.

By order and in the name of the Governor of Goa.

D. M. Borkar, Under Secretary (Personnel).

Panaji, 16th June, 2000.

Order

No. 6/4/91-PER (Part II)

In partial modification to this Department's Order of even number dated 01-06-2000, the services of Shri P. S. Pednekar, Junior Scale Officer of Goa Civil Service who is under orders of transfer as Deputy Registrar, Government Polytechnic, Panaji, are placed at the disposal of Legislature Department, for his appointment as Officer on Special Duty to the Hon'ble Speaker with effect from 01-06-2000 (F.N.).

By order and in the name of the Governor of Goa.

D. M. Borkar, Under Secretary (Personnel).

Panaji, 16th June, 2000.

Notification

No. 7-6-99-PER

In continuation of this Department's Notification of even number dated 24th May, 2000 the Governor of Goa is pleased to order the allocation of

departments among Secretaries with immediate effect as detailed below:-

Sr. No.	Name and designation of the Officer	Department
1	2	3
1.	Shri Vijay S. Madan, Commissioner & Secretary, Finance.	— Election/Chief Electoral Officer, Information & Technology.
2.	Ms. Archana Arora, Secretary (Revenue)	— Rural Development.
3.	Shri A. Venkatratnam, Secretary (Forest).	— Parks and Gardens.

By order and in the name of the Governor of Goa.

D. M. Borkar, Under Secretary (Personnel).

Panaji, 19th June, 2000.

Department of Power

Office of the Chief Electrical Engineer

Order

No. CEE/Estt-31-25-88 (GPSC)/903

Government is pleased to promote Shri A. V. Faldessai, Executive Engineer (Elect.) of Elect. Divn-IV (O&M), Margao to the post of Superintending Engineer (Elect.) in the Electricity Department on adhoc basis for a period of six months in the pay scale of Rs. 12000-375-16,500/- with immediate effect and to post in the office of the Superintending Engineer, Elect. Circle-II(N), Panaji.

This will not bestow claim for regular appointment. The service rendered on adhoc basis in the grade will not count for the purpose of seniority in that grade for eligibility for promotion to the next higher grade.

Shri Faldessai should report to the new place of posting immediately and take over the charge from Shri S. N. Jain, Executive Engineer, who is holding the additional charge of Supdt. Engineer, Circle-II(N), Panaji.

By order and in the name of the Governor of Goa.

R. A. Ghali, Chief Electrical Engineer & Ex. Officio Addl. Secretary.

Panaji, 19th June, 2000.

Order

No. CEE/Estt-31-25-88 (GPSC)/891

Government is pleased to promote the following Officers in the grade of Assistant Engineer (E) to the post of Executive Engineer (Elect.) in the office of Chief Electrical Engineer on adhoc basis for a period of six months in the pay scale of Rs. 10,000-325-15,200 with immediate effect:

1. Shri G. V. Murthy.
2. " G. S. Bhadti.
3. " Peter J. Fernandes.
4. " H. S. Rao.
5. " Blasco-da-Conceicao.

On promotion the above Officers are posted as under:-

Sl. No.	Name	Present place of working	Place of posting on promotion
1	2	3	4
1. Shri G. V. Murthy	O/o Chief Elect Engineer.	Exe. Engineer, Elect. Div. X (O&M) Ponda against vacant post.	
2. " G. S. Bhadti	O/o Asst. Engr. Elect. S/D-IV (O&M) Pernem under Elect. Div. VI, Mapusa	Exe. Engineer, Elect. Div-VI (O&M) Mapusa against vacant post.	
3. Peter J. Fernandes	Asst. Engineer (Tech) of Elect. Div. XII, Xeldem	Exe. Engineer, Elect. Div. XIV (EHV), Verna, against vacant post.	
4. " H. S. Rao	O/o Asst. Engr. Sub-Div. I (RCC& Workshop) under Div. II, Margao.	Exe. Engineer, O/o Chief Elect. Engineer, Panaji against vacant post.	
5 " Blasco-da Conceicao	O/o Asst. Engr. Sub-Div. II (S) Margao, under Div. II, Margao	Exe. Engineer, Elect. Div. II, Margao against vacant post.	

The above promotees will not bestow any claim for regular appointment. The service rendered on adhoc basis in the grade will not count for the purpose of seniority in that grade for eligibility for promotion to the next higher grade.

They should report to their respective place of posting immediately and take over charge.

By order and in the name of the Governor of Goa.

R. A. Ghali, Chief Electrical Engineer & Ex. Officio Addl. Secretary.

Panaji, 19th June, 2000.

Department of Public Health

Addendum

No. 8/61/87-I/PHD (Part file)

Read: Government Order No. 8/61/87-I/PHD (Part file) dated 22-2-2000.

In the first para of Government Order referred to above, after the words "whichever is earlier", the words "with effect from 1-1-2000 (F.N.)" may be added.

By order and in the name of the Governor of Goa.

T. J. Faleiro, Joint Secretary (Health).

Panaji, 19th June, 2000.

Department of Public Works

Order

No. 108/1/87/CE-PWD-ADM-II/(Part)/116

Sanction of the Government is hereby conveyed for upgrading the post of Assistant Engineer (Arbitration) in Public Works Department as Executive Engineer (Legal) in the pay scale of Rs. 10,000-325-15,200, in lieu of the existing post of Assistant Engineer (Arbitration). Accordingly, Government is pleased to appoint Mr. P. F. Rodrigues, Assistant Engineer (Arbitration) as Executive Engineer (Legal) on ad-hoc basis with immediate effect, and post him in the office of Superintending Engineer (Co. & Co.), P. W. D., Panaji.

By order and in the name of the Governor of Goa.

T. K. Mohandas, Chief Engineer, P.W.D. & Ex-Officio Additional Secretary to the Government.

Panaji, 19th June, 2000.

Department of Revenue

Notification

No. 22/53/2000-RD

Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred

to as the "said land") is likely to be needed for public purpose viz. for construction of road from Codar to Shirantal In V. P. Bethora in Ponda Taluka.

Now, Therefore, the Government hereby notifies, under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints, under clause (c) of section 3 of the said Act, the Dy. Collector/SDO, Ponda to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government also authorises under sub-section (2) of section 4 of the said Act, the following Officers to do the Acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji.
2. Dy. Collector/SDO, Ponda.
3. Executive Engineer, Div. XVIII(R), PWD, Ponda.
4. Director of Settlement & Land Records, Panaji.

6. A rough plan of the said land is available for inspection in the Office of the Dy. Collector/SDO, Ponda for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Taluka: Ponda		Village: Codar	
Survey No./ Sub-Div. No.	Names of the persons believed to be interested	Appx. area in sq. mts.	
1	2	3	
106/1 part	H: Sadashiv Vishnu Parab. Shrikant Narayan Umarye.	450	
107/1	" H: Uday Nilkant Behare.	800	
107/2	" H: Vinayak Fondu Porob. Gopal Vishram Porob Velguenkar.	700	
97/2	" H: — do —	550	
97/1	" H: Rama Bhaskar Porob.	1100	
108	" H: Gurudas Krishna Dhond.	850	
			Total:..... 4450

By order and in the name of the Governor of Goa.

J. V. Pednekar, Under Secretary (Revenue).

Panaji, 23rd June, 2000.